IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 29TH AUGUST 2006 / 7TH BHADRA 1928

ST.Rev..No. 104 of 2004

TA.970/2003 of S.T.A.T.ADDL.BENCH,ERNAKULAM
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PETITIONER/APPELLANT/APPELLANT/ASSESSEE

M/S.ALAGENDRAN EXPORTS PVT.LTD.,
CASHEW EXPORTERS, KALOOR, ERNAKULAM.

BY ADVS. SMT.S.AMINA &
SHRI PAUL ABRAHAM VAKKANAL

RESPONDENT/ RESPONDENT/RESPONDENT/REVENUE

STATE OF KERALA REPRESENTED BY
DEPUTY COMMISSIONER (LAW), COMMERCIAL TAXES,
ERNAKULAM.

BY GOVERNMENT PLEADER (SHRI GEORGEKUTTY MATHEW)

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 29/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C. N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.

S.T. REV. NO. 104 OF 2004

Dated this the 29th day of August, 2006

JUDGMENT

C. N. Ramachandran Nair, J.

Heard counsel for petitioner and the Special Government Pleader appearing for respondent. First question raised is with regard to liability to pay tax under Section 5(A) of the KGST Act on purchases of cashew kernels from unregistered dealers for sales to Exporters, covered by Section 5(3) of the CST Act. The issue is covered by the decision of the Supreme Court in State of Karnataka v. B.M. Ashraf & Co. ((1997) 107 STC 571). Since we find that the first appellate authority as well as the tribunal rendered their decisions based on the decision of the Supreme Court, this question is answered against petitioner.

2. So far as the next question is concerned, it is only against addition of turnover after rejecting Books of Accounts. Even though counsel contended that there is no justification for rejecting Books of Accounts for want of manufacturing account,

we are unable to accept the contention because, petitioner was engaged in import and supply of cashew nuts. The imported cashew nuts were entrusted to sub contractors for processing the same. No Accounts are seen maintained with regard to manufacture which disabled the Assessing Officer from verifying whether the cashew kernels sold and exported were obtained by petitioner from sub contractors under job works or whether by way of purchasing. In the circumstances, rejection of Books of Accounts is rightly upheld by the first appellate authority and the tribunal. Moreover, it is seen that addition was made by tribunal based on taxable turnover, granting relief to petitioner. We do not find any ground to interfere with the finding of the tribunal on this issue also. The S.T.Rev.Case accordingly fails and it is dismissed.

C. N. RAMACHANDRAN NAIR, JUDGE

K. M. JOSEPH, JUDGE

kbk.